

Message

From: Timsina, Gopal [Timsina.Gopal@epa.gov]
Sent: 2/20/2018 6:42:56 PM
To: David Evan [david@isaacind.com]
Subject: RE: TSCA IRL (Penalty)

FYI

§711.1 Scope and compliance.

(a) This part specifies reporting and recordkeeping procedures under section 8(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(a)) for certain manufacturers (including importers) of chemical substances. Section 8(a) of TSCA authorizes the EPA Administrator to require reporting of information necessary for administration of TSCA, including issuing regulations for the purpose of compiling and keeping current the TSCA Chemical Substance Inventory (TSCA Inventory) as required by TSCA section 8(b). In accordance with TSCA section 8(b), EPA amends the TSCA Inventory to include new chemical substances manufactured (including imported) in the United States and reported under TSCA section 5(a)(1). EPA also revises the categories of chemical substances and makes other amendments as appropriate.

(b) This part applies to the activities associated with the periodic update of information on a subset of the chemical substances included on the TSCA Inventory.

(c) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under this part. In addition, TSCA section 15(3) makes it unlawful for any person to fail to keep, and permit access to, records required by this part. Section 16 of TSCA provides that any person who violates a provision of TSCA section 15 is liable to the United States for a civil penalty and may be criminally prosecuted. Pursuant to TSCA section 17, the Federal Government may seek judicial relief to compel submission of TSCA section 8(a) information and to otherwise restrain any violation of TSCA section 15. (EPA does not intend to concentrate its enforcement efforts on insignificant clerical errors in reporting.)

(d) Each person who reports under this part must maintain records that document information reported under this part and, in accordance with TSCA, permit access to, and the copying of, such records by EPA officials.

<https://www.ecfr.gov/cgi-bin/text-idx?SID=67d6bef171a818c562598fe40d3f2144&mc=true&node=pt40.33.711&rgn=div5>

Please let me know if you have any questions.

Thank you

Gopal

From: David Evan [mailto:david@isaacind.com]
Sent: Tuesday, February 20, 2018 12:29 PM
To: Timsina, Gopal <Timsina.Gopal@epa.gov>
Cc: david@isaacind.com
Subject: RE: TSCA IRL (Penalty)

Mr. Gopal Timsina:

Thank you for your confirmation.

For the sake of good order, would you kindly send me the exact language of the Chemical Data Reporting to which you are making reference.

Good Day,

David Avan

ISAAC INDUSTRIES INC.

Tel: 305 836 4040

Fax: 305-836-2403

From: Timsina, Gopal [<mailto:Timsina.Gopal@epa.gov>]

Sent: Tuesday, February 20, 2018 7:11 AM

To: David Evan

Subject: RE: TSCA IRL (Penalty)

Good morning David,

Extension 30 days from today is granted. Isaac is also chemical importer. Chemical Data Reporting is for manufacturer or importer or for both.

Please let me know if you have any questions.

Thank you

Gopal

From: David Evan [<mailto:david@isaacind.com>]

Sent: Thursday, February 15, 2018 3:59 PM

To: Timsina, Gopal <Timsina.Gopal@epa.gov>

Cc: 'David Evan' <david@isaacind.com>

Subject: RE: TSCA IRL (Penalty)

Importance: High

Dear Mr. Gopal Timsina,

We are in receipt of your communication.

We would like to ask you to give us an extension of 30 days to come back to you.

We are checking all our options.

The citation/penalty involved will put this company in jeopardy.

Only for the record I will like to clarify that Isaac Industries is merely a dealer/exporter of these chemicals.

We appreciate your consideration in giving us this extension.

Very Truly Yours,

David Avan

Isaac Industries, Inc.

7330 NW 36th Ave
Miami, FL 33147
Tel. (305) 836-4040
Fax. (305) 836-2403

From: Timsina, Gopal [<mailto:Timsina.Gopal@epa.gov>]

Sent: Wednesday, February 07, 2018 11:35 AM

To: david@isaacind.com

Cc: Debby Alonso

Subject: TSCA IRL (Penalty)

Hi David,

Based on EPA's review of your information, EPA concluded that (1) two chemicals were not reported in 2016 Chemical Data Reporting (CDR) and (2) failed to submit the export notification of a chemical to the EPA. This chemical is in 12 (b) list. Isaac Industries exported many shipments of the 12 (b) chemical to the six different countries. The number of instances of export violations are 6 (per chemical per country).

Section 15, U.S.C. § 2614 of TSCA makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under TSCA Section 8, 15 U.S.C. § 2609 and TSCA Section 12, 15 U.S.C. § 2611. In addition, Section 16, U.S.C. § 2615 of TSCA provides that any person who violates a provision of TSCA Section 15 is liable to the United States for a civil penalty and may be criminally prosecuted. The EPA has determined that Isaac Industries is liable for a civil penalty for failing to comply with TSCA Sections 8 and 12.

According to the Amendments to the EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule (see attachment) and Enforcement Response Policy for Reporting and Recordkeeping Rules and Requirements for TSCA Sections 8, 12, and 13 (1999), the Gravity Based Penalty (GBP) for failure to report on 2016 CDR is **\$26,446** per chemical (circumstance = level 1 and extent = significant) and export notice is **\$9,334** per chemical per country (circumstance = level 4 and extent = significant). Total Gravity based penalty for failure to submit CDR for two chemicals is **\$52,900** (rounded to nearest hundred). Similarly, failure to submit export notice is **\$56,000** (the number of instances of export violations are six). Based on the information presented to the EPA, the total proposed GBP is **\$108,900**. In an effort to resolve this matter without need for litigation, the EPA extends to Isaac Industries the opportunity to settle the potential violation by reducing the GBP by 15 percent (**\$16,335**) which results in a proposed settlement offer of **\$92,565**. The fifteen percent reduction applies provided that Isaac Industries fully cooperates with the EPA in an effort to settle this matter.

For assistance in determining the GBP calculations and reductions, attached is a copy of the: (1) The March 31, 1999, TSCA Sections 8, 12, and 13 Enforcement Response Policy (ERP) and; (2) the 2018 Civil Monetary Penalty Inflation Adjustment Rule.

There are adjustment factors referenced in the ERP that could be considered in an effort to reach a final settlement. Review the ERP and contact me if you have any questions. Please provide a written response to the EPA by February 21, 2018, and indicate if Isaac Industries accepts or rejects the settlement offer.

Please let me know if you have any questions.

Thank you

Gopal Timsina

EPA Region 4



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